IN THE HIGH COURT OF JUDICATRE AT MADRAS

DATED:24.04.2006

CORAM:

THE HON'BLE MR. JUSTICE P. SATHASIVAM
AND
THE HON'BLE MR. JUSTICE J.A.K. SAMPATHKUMAR

H.C.P.No.273 of 2006

Rameshkumar .. Petitioner

vs.

1. The Secretary to Government
   Co.operation, Food and Consumer
   Protection Department
   Fort St. George, Chennai 9.

2. The District Collector &
   District Magistrate
   Sivagangai District
   Sivagangai.

3. The Secretary to Government
   Food and Consumer Protection
   Department, Govt. of India
   New Delhi. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Habeas corpus as stated therein call for the records in connection with the order of detention passed by the second respondent dated 27.2.2006 in CMP.No.1/2006(CS) against the petitioner's father Kaliappan son of Sangaralingan aged about 75 years who is confined at Central Prison, Trichy and setaside the same and direct the respondents to produce the detenu Kaliappan before this Honourable Court and set him at liberty.

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For petitioner : Mr. V. Parthiban
For respondents : Mr. Abudukumar Rajarathinam
Govt. Advocate (Crl.side)

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ORDER

(ORDER of the Court was made by P.SATHASIVAM,J.)

The petitioner by name Rameshkummar, son of the detenu S. Kaliappan, who was detained as a "Black Marketer" under Section 3 (2) (a) read with 3 (1) of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980, by the impugned proceedings dated 27.02.2006, challenges the order of detention in this petition.

2. Heard both sides.

3. At the foremost, the learned counsel appearing for the petitioner by drawing our attention to Quality Certificates issued by the Tamil Nadu Civil Supplies Corporation available at pages 35 and 36 of the paper book submitted that the conclusion therein is not in the language known to the detenu and the translated copy of the same was not supplied to him within the time prescribed.

4. We verified the quality certificates issued by the Authorities. After examination, the authorities certified that "it resembles PDS rice" It is the grievance of the petitioner that by relying on the above document, the impugned detention order was passed on 27.02.2006 and the conclusion therein was not supplied to the detenu in the language known to him. According to the petitioner, the language known to him is only Tamil. In this regard, it is relevant to refer Section 8 of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980, which reads as under.

> "8. Grounds of order of detention to be disclosed to person affected by order.
>
> (1) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but ordinarily not later than five days and in exceptional circumstances and for reasons to be recorded in writing, no later than ten days from the date of detention, communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the appropriate government. "

5. It is clear from the above provision that the authority who passes the detention order should furnish grounds on which the order has been made ordinarily not later than 5 days and in exceptional circumstances and by recording reasons is permitted to forward the grounds not later than 10 days from the date of detention. It is not in dispute that in the present case impugned detention order was passed on 27.02.2006. It is also not in dispute that the translated version of the conclusion of the quality certificate was not communicated to the detenu within the time prescribed.

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6. It is brought to our notice that the petitioner has made a representation highlighting the said grievance on 01.03.2006 and only on 15.03.2006, the translated copy was supplied to the detenue. It cannot be claimed that the supply of translated copy on 15.03.2006 satisfies the Section 8(1) of the Act. According to us, the course adopted by the respondents vitiates the impugned order of detention. On this ground, the impugned dentition order is quashed and the habeas corpus petition is allowed. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

Kh

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

To
1. The Secretary to Government
   Co.operation, Food and Consumer
   Protection E-1 Department
   Fort St. George, Chennai 9.

2. The District Collector &
   District Magistrate
   Sivagangai District, Sovagangai.

3. The Secretary to Government
   Food and Consumer Protection
   Department, Govt. of India New Delhi.

4. The Public Prosecutor, High Court, Madaras.

5. The Superintendent
   Central Prison, Trichy.
   (In duplicate to detenue)

6. The Joint Secretary to Government,
   Public (Law and Order)
   Fort Saint George, Chennai-9.

+ 1 CC To Mr.C.Prakasam, Advocate, SR NO.21121.

HCP.No.273 of 2006

AK(CO)
RVL 28.04.2006

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